

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

JAMES EVANS, JR.,

No. C 11-04057 SBA (PR)

Petitioner,

## **ORDER OF DISMISSAL**

STATE OF CALIFORNIA.

## Respondent.

---

I

This action was opened in error when the Court received a letter dated July 31, 2011 from Petitioner that was intended to be filed in a previously-filed action -- Case No. C 11-3129 SBA (PR). Petitioner had filed a petition in Case No. C 11-3129 SBA (PR). He was sent a Clerk's notice in Case No. C 11-3129 SBA (PR) directing him to either pay the filing fee or file a completed prisoner's in forma pauperis application. The Clerk sent Petitioner a blank in forma pauperis application and told him that he must pay the fee or return the completed application within thirty days or his action would be dismissed. On July 14, 2011, Petitioner filed a completed IFP application and a motion for appointment of counsel in Case No. C 11-3129 SBA (PR).

17 Petitioner currently has two separate habeas actions pending, although he meant to file only  
18 one action. Accordingly, the Clerk is directed to remove Petitioner's letter from this action by  
19 Petitioner. The Clerk is then directed to file it in his previously-filed action, Case No. C 11-3129  
20 SBA (PR). The Clerk is further directed to mark his letter, as filed on the date it was received by the  
21 Court. The Court will review his petition, in forma pauperis application, and any other pending  
22 motions in a separate written Order in Case No. C 11-3129 SBA (PR).

23 The present action is DISMISSED because it was opened in error. No filing fee is due. The  
24 Clerk shall close the file.

IT IS SO ORDERED.

DATED: 9/16/11

Saudra B. Armstrong  
SAUNDRA BROWN ARMSTRONG  
United States District Judge

**United States District Court**  
For the Northern District of California

1 UNITED STATES DISTRICT COURT  
2 FOR THE  
3 NORTHERN DISTRICT OF CALIFORNIA

4 JAMES EVANS JR.,

5 Plaintiff,

6 v.

7 / et al,

8 Defendant.  
9 \_\_\_\_\_/

Case Number: CV11-04057 SBA

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on September 20, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

13  
14  
15 James Evans F-06497  
16 California State Prison - Corcoran  
P.O. Box 8800  
Corcoran, CA 93212-8309

17 Dated: September 20, 2011

18 Richard W. Wieking, Clerk  
By: LISA R CLARK, Deputy Clerk

19  
20  
21  
22  
23  
24  
25  
26  
27  
28